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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/224,477

12/31/1998

ROBERT C. DIXON

239/104

3646

7590

06/30/2004

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EXAMINER

MOORE, JAMES K

ART UNIT

PAPER NUMBER

2686

28

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/224,477

Applicant(s)

DIXON, ROBERT C.

Examiner

James K Moore

Art Unit

2686

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-45 is/are allowed.
- 6) ☒ Claim(s) 46 and 48 is/are rejected.
- 7) ☒ Claim(s) 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 5, 2004 has been entered.

Response to Arguments

2. Applicant's arguments, see pages 10 and 11, filed February 5, 2004, with respect to the 35 U.S.C. 112, 1st paragraph rejection of claims 28-30 have been fully considered and are persuasive. The 35 U.S.C. 112, 1st paragraph rejection of claims 28-30 has been withdrawn.

3. Applicant's arguments, see pages 11-13, with respect to the 35 U.S.C. 112, 1st paragraph rejection of claims 34-45 have been fully considered and are persuasive. The 35 U.S.C. 112, 1st paragraph rejection of claims 34-45 has been withdrawn.

4. Applicant's arguments, see pages 13-14, with respect to the 35 U.S.C. 112, 1st paragraph rejection of claim 47 have been fully considered and are persuasive. The 35 U.S.C. 112, 1st paragraph rejection of claim 47 has been withdrawn.

5. Applicant's arguments with respect to the 35 U.S.C. 102(e) rejection of claims 46 and 48 have been fully considered but they are not persuasive.

Applicant's arguments do not clearly point out the patentable novelty which he or she thinks claims 46 and 48 present in view of the Chuang et al. reference.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 46 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuang et al. (U.S. Patent No. 5,212,831).

Regarding claim 46, Chuang discloses a control station (port 30, 40, 50, or 70) comprising a receiver and a transmitter. The control station dynamically determines a first frequency in closest use to a first cell, selects a second frequency different from the first frequency, and dynamically assigns the second frequency to the first cell. See Figures 1 and 3 and col. 12, lines 8-51.

Regarding claim 48, Chuang discloses all of the limitations of claim 46, and also discloses that the first cell may be in a first system and a second cell that uses the first frequency may be in a second system. See col. 13, lines 8-14.

Allowable Subject Matter

8. Claims 22-45 are allowed.
9. Claim 47 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. The following is a statement of reasons for the indication of allowable subject matter:

Claims 22-30 and 34-39 are directed to a method performed by a control station which controls a plurality of cells of a first communications system, including a first cell. The method comprises dynamically determining at the control station a first code in use by a cell of a second communications system in closest use to the first cell, selecting at the control station a second code different from the first code, and dynamically assigning at the control station the second code to be used in the first cell.

The closest prior art, Schloemer (U.S. Patent No. 5,206,882) discloses a method comprising dynamically determining at a control station (a mobile station) a first code in use by a cell in closest use to a first cell, selecting at the control station a second code different from the first code, and dynamically assigning at the control station the second code to be used in the first cell. However, Schloemer's control station does not control a plurality of cells of a first communications system including the first cell.

Claims 31-33 and 40-45 are directed to a method performed by a control station which controls a plurality of cells of a first communications system, including a first cell. The method comprises dynamically determining at the control station a first frequency in use by a cell of a second communications system in closest use to the first cell, selecting at the control station a second frequency different from the first frequency, and dynamically assigning at the control station the second frequency to be used in the first cell.

The closest prior art, Chuang et al., discloses a method comprising dynamically determining at a control station (a radio port) a first frequency in use by a cell in closest use to a first cell, selecting at the control station a second frequency different from the first frequency, and dynamically assigning at the control station the second frequency to be used in the first cell. However, Chuang's control station does not control a plurality of cells of a first communications system including the first cell.

Conclusion

11. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

JKM

6/25/04


CHARLES APPIAH
PRIMARY EXAMINER